IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1205 OF 2006

Nitin Kamlakar Chakranarayan ...Petitioner

vs.

The State of Maharashtra & Ors. ...Respondents

Mr.Viresh V. Purwant for the Petitioner
Ms S.V.Gajare, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 5,2006.

ORAL JUDGMENT:

1. Rule was already issued on 28th June 2006. On 4th September 2006 this Petition was finally heard and today it is kept for dictation of Judgment.

2. The challenge in this Petition is to the order dated 8th December 2005 passed by the second respondent under section 60 of the Bombay Police Act, 1951. By the said order, the Petitioner was ordered to be externed from Solapur, Osmanabad and Pune Districts for a period of one year. The challenge in this Petition is also to the order dated 15th May 2006 passed by the State Government in an Appeal preferred by the Petitioner for challenging the order of externment. The order of externment was modified by the Appellate Authority by confining the same to Solapur and Osmanabad District.

3. The learned Counsel for the Petitioner submitted that the order passed by the Authority clearly shows that the same is excessive. He submitted that the alleged prejudicial

activities of the Petitioner are confined to area of certain police stations in District Solapur. He submitted that the fact that the order of externment was excessive was accepted by the Appellate Authority. He, therefore, submitted that the order of externment deserves to be quashed and set aside.

4. The learned A.P.P. appearing for the State Government supported the impugned Orders and submitted that no interference is called for. He invited my attention to various prejudicial activities of the Petitioner which are reflected from the order of externment and the order of the Appellate Authority.

5. I have considered the submissions. The order of externment passed against the Petitioner relates to three Districts viz. Solapur, Osmanabad and Pune. In the statutory Appeal preferred by the Petitioner, the order of externment has been modified and has been confined to only two districts viz. Solapur and Osmanabad. Perusal of the order passed by the second Respondent shows that the alleged prejudicial activities of the Petitioner are confined to jurisdiction of certain police stations in the city of Solapur. There is no assertion that the activities of the Petitioner extended to Osmanabad and Pune Districts. Moreover, mere geographical proximity with Solapur District by itself is no ground to extend the order of externment to Osmanabad and Pune District. The decision of this Court in case of Ganpat @ Ganesh Tanaji

Katare and others Vs. Assistant Commissioner of Police and others reported in (2005) All M.R. Criminal page 2717 will squarely apply to this case.

6. Moreover, in the present case, the Appellate Authority itself accepted that the order of externment was excessive and that is the reason why the Appellate Authority purported to confine the order of externment only two districts. Thus, the Appellate Authority itself found that the order of externment was excessive. It is well settled proposition of law that when it is found that order of externment is excessive, the same cannot be corrected or modified and order itself becomes illegal. In view of this position, order of externment deserves to be quashed and set aside. Accordingly, I pass the following order :

i) The order dated 8th December 2005 passed by the second Respondent as well as order dated 12th May 2006 passed by the third Respondent are quashed and set aside.

ii) Rule is accordingly made absolute.

JUDGE